

NEWS – CONGRESSMAN PETE STARK

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FOR IMMEDIATE RELEASE

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STARK: FIX TAX POLICY THAT HURTS INNOCENT SPOUSES

Calls on IRS to Address a Top Request of National Taxpayer Advocate

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WASHINGTON- Rep. Pete Stark (D-CA) and Rep. Jim McDermott (D-WA) were joined by 48 of his colleagues on a letter requesting the IRS Commissioner address a longstanding problem that hurts innocent taxpayers, who are disproportionately women, and leaves them liable for the misdeeds of their spouses. Co-signers include the *entire Democratic membership of Ways & Means, the Committee with jurisdiction over tax issues*

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Rep. Stark: "The IRS should not be in the business of curtailing protections for innocent taxpayers, but the two-year limit in the "innocent spouse rule" does just that. Revoking this discriminatory policy is a necessary step toward ensuring our tax code works fairly for *all* Americans."

Rep. McDermott: "Protecting innocent taxpayers from fraud is critical to the integrity of our tax system. The IRS has imposed a rule limiting relief for innocent spouses that was not intended by Congress and I will continue to fight to have this rule repealed."

The Internal Revenue Code's "innocent spouse rule" protects individuals from liability for a tax return filed with a spouse who broke the law. The rule, however, only allows for two years of protection for an innocent spouse, while the IRS has ten years to go after both tax filers. Because of this hole in the tax code, innocent spouses *of people who've evaded tax laws can be left on the hook for crimes they did not commit.*

Rep. Stark and co-signers are asking the IRS Commissioner Douglas Shulman to withdraw the arbitrary regulation that limits the innocent spouse protection to two years.

Fixing the “innocent spouse rule” has widespread support:

- It was the No. 3 legislative recommendation from the National Taxpayer Advocate, Nina Olson, in her 2010 report to Congress.
- The Tax Court has ruled in multiple decisions that the two-year limitation is invalid.
- The Stark letter is endorsed by the National Women’s Law Center.

The text of the letter is below. For a PDF of the letter, [click here](#) .

April 18, 2011

The Honorable Douglas Shulman

Commissioner

Internal Revenue Service

1111 Constitution Avenue, NW

Washington, DC 20224

cc: Nina E. Olson, National Taxpayer Advocate

Dear Commissioner Shulman:

We are supporters of fair and equitable administration of our tax laws and would like to raise an issue of concern with you. Each year there are 50,000 innocent spouse claims filed with the IRS and of these, approximately 2,000 are time barred. When Congress created the “innocent spouse” protection in the Internal Revenue Code, we did not mandate a statute of limitation for equitable relief claims raised under IRC 6015(f) and 66(c). However, the IRS enacted regulations limiting this protection to two years.

Under section 6015(f) and in the flush language of 66(c) of the Internal Revenue Code of 1986,

equitable tax relief is available when “taking into account all facts and circumstances, it is inequitable to hold the individual liable for any unpaid tax or any deficiency (or any portion of either).” No time limit on raising this defense is provided within the Code itself. The IRS improperly “borrowed” the two-year statute of limitations in 6015(b) and 6015(c) and applied it to these other sections of the Code when it crafted Revenue Procedure 2000-15 and Treas. Reg. 1.6015-5, and in doing so, violated the spirit of the original law.

The lack of any statute of limitations within 6015(f) should be interpreted as intentional. The Supreme Court held in *Russello v. United States*, that where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion. 464 U.S. 16 (1983).

Section 6015 was created by Congress as part of the Internal Revenue Service Restructuring and Reform Act of 1998. Several of the women who testified before the Senate Finance Committee about the need for an innocent spouse rule would not have been eligible for relief if there had been a two-year statute of limitations to their claims. Section 6015(f) was meant to function as a “safety valve”. When a spouse does not meet the requirements of 6015(b) and (c) the court may weigh all facts and circumstances under 6015(f). By restricting these claims to only the first two years after the start of a collection action, the IRS determined that an analysis of all facts and circumstances is important in only the first two years. Therefore, in years three through ten, the only factor considered that may be weighed when there is a request for relief, is the date the defense is raised.

We urge the IRS to reconsider its position on Revenue Procedure 2000-15 and Treas. Reg. 1.6015-5 and withdraw the two-year statute of limitations imposed on 66(c) and 6015(f).

Thank you for your consideration.

Sincerely,

Pete Stark

Jim McDermott

Sander Levin

Charles Rangel

John Lewis

Richard E. Neal

Xavier Becerra

Lloyd Doggett

Mike Thompson

John B. Larson

Earl Blumenauer

Ron Kind

Bill Pascrell

Shelley Berkley

Joseph Crowley

Gary Ackerman

Corrine Brown

Lois Capps

Wm. Lacy Clay

Steve Cohen

John Conyers

Danny K. Davis

Peter DeFazio

Rosa DeLauro

Anna Eshoo

Keith Ellison

Sam Farr

Barney Frank

Bob Filner

Raul M. Grijalva

Alcee L. Hastings

Rush Holt

Mike Honda

Jay Inslee

Jesse Jackson Jr.

Barbara Lee

Carolyn Maloney

Michael H. Michaud

George Miller

Jim Moran

Chellie Pingree

Lucille Roybal-Allard

Allyson Schwartz

Louise Slaughter

Jackie Speier

Betty Sutton

Maxine Waters

Peter Welch

Lynn Woolsey